

Pub. L. 87-688, §4(a)(3), 76 Stat. 587, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

A prior section 291v(b), act July 1, 1944, ch. 373, title VI, §654, as added July 12, 1954, ch. 471, §3, 68 Stat. 463, related to subject matter similar to this section, prior to the general amendment of this subchapter by Pub. L. 88-443.

#### AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-296, §103(a), substituted “sums appropriated for such year” for “new hospital portion of the sums appropriated for such year” and struck out provision setting out a formula for determining new hospital portion of sums appropriated pursuant to section 291a(b) of this title.

Subsec. (a)(2). Pub. L. 91-296, §103(a), substituted “Secretary” for “Surgeon General”, and substituted reference to sums appropriated for such year under section 291a(c) of this title for reference to remainder of sums appropriated pursuant to section 291a(b) of this title (which portion was to be available for grants for modernization of facilities referred to in paragraphs (a) and (b) of section 291a of this title).

Subsec. (b)(1)(A). Pub. L. 91-296, §§103(b)(1), 119(a)(1), substituted “\$50,000” and “\$100,000” for “\$25,000” and “\$50,000”, respectively, and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(B). Pub. L. 91-296, §§103(b)(2), 116(a), 119(a)(1), substituted “\$100,000” and “\$200,000” for “\$50,000” and “\$100,000”, respectively, substituted “out-patient facilities” for “diagnostic or treatment centers”, and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(C). Pub. L. 91-296, §§103(b)(3), 119(a)(1), substituted “\$200,000” and “\$300,000” for “\$100,000” and “\$200,000”, respectively, and inserted reference to Trust Territory of the Pacific Islands.

Subsec. (b)(1)(D). Pub. L. 91-296, §103(b)(4), added subpar. (D).

Subsecs. (b)(2), (c)(1). Pub. L. 91-296, §119(a)(2), (b), inserted reference to Trust Territory of the Pacific Islands.

Subsec. (d)(1). Pub. L. 91-296, §§119(c), 122, inserted reference to Trust Territory of the Pacific Islands and substituted two years for one year as the time span following a year in which allotted sums remaining unobligated at the end thereof during which such unobligated funds remain available.

Subsec. (d)(2). Pub. L. 91-296, §119(c), inserted references to Trust Territory of the Pacific Islands.

Subsec. (e). Pub. L. 91-296, §104, authorized any State to make transfers of any amount up to the minimum amount allotted to any state for a particular category and authorized all amounts above such minimums to be transferred from one category of assistance to another without restriction on the amounts with the exception that no funds could be transferred from rehabilitation facilities category or to new hospital construction category and that all transfers be justified on the basis that either there are no approvable applications in the category from which funds are transferred or, in case of transfers from new hospital construction category, the purposes of the program would be better served by the transfer, and authorized transfers to new hospital construction from modernization category if need is great-er.

1968—Subsec. (a)(1). Pub. L. 90-574, §402(b)(1), inserted provision for two-thirds of the sums appropriated in the case of the fifth fiscal year thereafter.

Subsec. (e)(2)(E). Pub. L. 90-574, §402(b)(2), added subpar. (E).

#### EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-296, title I, §103(a), June 30, 1970, 84 Stat. 338, provided that the amendment made by that section is effective with respect to appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Pub. L. 91-296, title I, §103(b), June 30, 1970, 84 Stat. 338, provided that the amendment made by that section is effective with respect to allotments from appropriations made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Pub. L. 91-296, title I, §104, June 30, 1970, 84 Stat. 338, provided that the amendment made by that section is effective with respect to allotments made pursuant to section 291a of this title for fiscal years beginning after June 30, 1970.

Pub. L. 91-296, title I, §119(e), June 30, 1970, 84 Stat. 343, provided that: “The amendments made by this section [amending this section and section 291o of this title] shall apply with respect to allotments (and grants therefrom) under part A of title VI of the Public Health Service Act [42 U.S.C. 291a et seq.] for fiscal years ending after June 30, 1970, and with respect to loan guarantees and loans under part B of such title [42 U.S.C. 291j-1 et seq.] made after June 30, 1970.”

Pub. L. 91-296, title I, §122, June 30, 1970, 84 Stat. 344, provided that the amendment made by that section is effective with respect to allotments made from appropriations under section 291a of this title for fiscal years beginning after June 30, 1970.

#### TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### AVAILABILITY OF FUNDS FOR OBLIGATION FROM ALLOTMENT FOR ADMINISTRATION OF PLAN

Pub. L. 93-641, §5(b), Jan. 4, 1975, 88 Stat. 2274, provided that any State having in the fiscal year ending June 30, 1975 or the next fiscal year funds available for obligation from its allotments under section 291a et seq. of this title, may in such fiscal year use for the proper and efficient administration during such year of its State plan an amount of such funds not exceeding 4 percentum of such funds or \$100,000, whichever is less.

#### ALLOTMENT STUDY; REPORT TO CONGRESS

Pub. L. 91-296, title I, §103(c), June 30, 1970, 84 Stat. 338, directed Secretary to study effects of the formula specified in subsec. (a)(1) of this section for allotment among the States for construction of health facilities, with results of such study together with recommendations for change to be reported to Congress on May 15, 1972.

#### APPROVAL OF APPLICATION FOR MODERNIZATION PRIOR TO JULY 1, 1965, OR BEFORE APPROVAL OF A STATE PLAN

Pub. L. 88-443, §3(b)(5), Aug. 18, 1964, 78 Stat. 462, providing that no application for modernization of any facility may be approved for purposes of receiving funds before the approval of a State plan, as well as other requirements, is set out as an Effective Date note under section 291 of this title.

### § 291c. General regulations

The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of

Health and Human Services shall by general regulations prescribe—

**(a) Priority of projects; determination**

the general manner in which the State agency shall determine the priority of projects based on the relative need of different areas lacking adequate facilities of various types for which assistance is available under this part, giving special consideration—

(1) in the case of projects for the construction of hospitals, to facilities serving areas with relatively small financial resources and, at the option of the State, rural communities;

(2) in the case of projects for the construction of rehabilitation facilities, to facilities operated in connection with a university teaching hospital which will provide an integrated program of medical, psychological, social, and vocational evaluation and services under competent supervision;

(3) in the case of projects for modernization of facilities, to facilities serving densely populated areas;

(4) in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

(5) to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization;

(6) to facilities which will provide training in health or allied health professions; and

(7) to facilities which will provide to a significant extent, for the treatment of alcoholism;

**(b) Standards of construction and equipment**

general standards of construction and equipment for facilities of different classes and in different types of location, for which assistance is available under this part;

**(c) Criteria for determining needs for beds, hospitals and other facilities; plans for distribution of beds and facilities**

criteria for determining needs for general hospital and long-term care beds, and needs for hospitals and other facilities for which aid under this part is available, and for developing plans for the distribution of such beds and facilities;

**(d) Criteria for determining need for modernization**

criteria for determining the extent to which existing facilities, for which aid under this part is available, are in need of modernization; and

**(e) State plan requirements; assurances necessary for approval of application**

that the State plan shall provide for adequate hospitals, and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor.

Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

(July 1, 1944, ch. 373, title VI, § 603, as added Pub. L. 88-443, § 3(a), Aug. 18, 1964, 78 Stat. 451; amended Pub. L. 88-581, § 3(b), Sept. 4, 1964, 78 Stat. 919; Pub. L. 91-296, title I, § 110, June 30, 1970, 84 Stat. 339; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

**PRIOR PROVISIONS**

A prior section 291c, act July 1, 1944, ch. 373, title VI, § 613, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041, related to allotments to States, the determination of their amount, and the disposition of unexpended funds, prior to the general amendment of this subchapter by Pub. L. 88-443. See section 291(a), (b) and (d) of this title.

Provisions similar to those comprising this section were contained in a prior section 291e, act July 1, 1944, ch. 373, title VI, § 622, as added Aug. 13, 1946, ch. 958, § 2, 60 Stat. 1041; amended 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, prior to the general amendment of this subchapter by Pub. L. 88-443.

**AMENDMENTS**

1970—Subsec. (a). Pub. L. 91-296 struck out from cl. (1) provisions requiring that States give special consideration for projects for hospitals serving rural areas but inserted provisions making such preference optional with each State and added cls. (4) to (7).

1964—Subsec. (a)(4). Pub. L. 88-581 struck out cl. (4) relating to hospital facilities which “will include new or expanded facilities for nurse training”.

**EFFECTIVE DATE OF 1970 AMENDMENT**

Pub. L. 91-296, title I, § 110, June 30, 1970, 84 Stat. 339, provided that the amendment made by that section is effective with respect to applications approved under this subchapter after June 30, 1970.

**EFFECTIVE DATE OF 1964 AMENDMENT**

Pub. L. 88-581, § 3(b), Sept. 4, 1964, 78 Stat. 919, provided that the amendments made by such section 3(b) [amending this section and sections 291o and 293c of this title] are effective with respect to applications for grants from appropriations for fiscal years beginning after June 30, 1965.

**TRANSFER OF FUNCTIONS**

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education, and Welfare” pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88 which

is classified to section 3508(b) of Title 20. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

#### § 291d. State plans

##### (a) Submission; requirements

Any State desiring to participate in this part may submit a State plan. Such plan must—

(1) designate a single State agency as the sole agency for the administration of the plan, or designate such agency as the sole agency for supervising the administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) of this subsection will have authority to carry out such plan in conformity with this part;

(3) provide for the designation of a State advisory council which shall include (A) representatives of nongovernmental organizations or groups, and of public agencies, concerned with the operation, construction, or utilization of hospital or other facilities for diagnosis, prevention, or treatment of illness or disease, or for provision of rehabilitation services, and representatives particularly concerned with education or training of health professions personnel, and (B) an equal number of representatives of consumers familiar with the need for the services provided by such facilities, to consult with the State agency in carrying out the plan, and provide, if such council does not include any representatives of nongovernmental organizations or groups, or State agencies, concerned with rehabilitation, for consultation with organizations, groups, and State agencies so concerned;

(4) set forth, in accordance with criteria established in regulations prescribed under section 291c of this title and on the basis of a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to such regulations) community, area, or regional plans—

(A) the number of general hospital beds and long-term care beds, and the number and types of hospital facilities and facilities for long-term care, needed to provide adequate facilities for inpatient care of people residing in the State, and a plan for the distribution of such beds and facilities in service areas throughout the State;

(B) the public health centers needed to provide adequate public health services for people residing in the State, and a plan for the distribution of such centers throughout the State;

(C) the outpatient facilities needed to provide adequate diagnostic or treatment services to ambulatory patients residing in the State, and a plan for distribution of such facilities throughout the State;

(D) the rehabilitation facilities needed to assure adequate rehabilitation services for disabled persons residing in the State, and a plan for distribution of such facilities throughout the State; and

(E) effective January 1, 1966, the extent to which existing facilities referred to in sec-

tion 291a(a) or (b) of this title in the State are in need of modernization;

(5) set forth a construction and modernization program conforming to the provisions set forth pursuant to paragraph (4) of this subsection and regulations prescribed under section 291c of this title and providing for construction or modernization of the hospital or long-term care facilities, public health centers, outpatient facilities, and rehabilitation facilities which are needed, as determined under the provisions so set forth pursuant to paragraph (4) of this subsection;

(6) set forth, with respect to each of such types of medical facilities, the relative need, determined in accordance with regulations prescribed under section 291c of this title, for projects for facilities of that type, and provide for the construction or modernization, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need;

(7) provide minimum standards (to be fixed in the discretion of the State) for the maintenance and operation of facilities providing inpatient care which receive aid under this part and, effective July 1, 1966, provide for enforcement of such standards with respect to projects approved by the Surgeon General under this part after June 30, 1964;

(8) provide such methods of administration of the State plan, including methods relating to the establishment and maintenance of personnel standards on a merit basis (except that the Surgeon General shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Surgeon General to be necessary for the proper and efficient operation of the plan;

(9) provide for affording to every applicant for a construction or modernization project an opportunity for a hearing before the State agency;

(10) provide that the State agency will make such reports, in such form and containing such information, as the Surgeon General may from time to time reasonably require, and will keep such records and afford such access thereto as the Surgeon General may find necessary to assure the correctness and verification of such reports;

(11) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records specified in paragraph (10) of this subsection;

(12) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Surgeon General any modifications thereof which it considers necessary; and

(13) Effective<sup>1</sup> July 1, 1971, provide that before any project for construction or modernization of any general hospital is approved by the State agency there will be reasonable assurance of adequate provision for extended

<sup>1</sup> So in original. Probably should not be capitalized.